

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

AIR PRODUCTS AND CHEMICALS,
INC., and AIR PRODUCTS LLC,

Plaintiffs,

v.

GENERAL SERVICES
ADMINISTRATION; ROBIN
CARNAHAN, in her official capacity as
Administrator of the General Services
Administration; UNITED STATES
DEPARTMENT OF THE INTERIOR;
DEBRA HAALAND, in her official capacity
as Secretary of the United States Department
of the Interior; BUREAU OF LAND
MANAGEMENT; and TRACY STONE-
MANNING, in her official capacity as
Director of the Bureau of Land Management,

Defendants.

Case No. 23-cv-147

PLAINTIFFS' OPPOSED MOTION FOR PRELIMINARY INJUNCTION

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Plaintiffs Air Products and Chemicals, Inc. and Air Products LLC respectfully move for a preliminary injunction pursuant to Federal Rule of Civil Procedure 65 against Defendants General Services Administration; Robin Carnahan, in her official capacity as Administrator of the General Services Administration; United States Department Of The Interior; Debra Haaland, in her official capacity as Secretary of the United States Department of the Interior; Bureau Of Land Management; and Tracy Stone-Manning, in her official capacity as Director of the Bureau of Land Management. Plaintiffs request an order preliminarily enjoining Defendants from implementing or enforcing Invitation For Bid No. BLM-R-2044, including, but not limited to: the unsealing or opening of bids submitted pursuant to the Invitation For Bid; the selection or announcement of a winning bid submitted pursuant to the Invitation For Bid; taking any steps pursuant to the Invitation For Bid toward the sale or conveyance of the Federal Helium System as defined by 50 U.S.C. § 167(4), which includes leasehold interests in the Crude Helium Enrichment Unit; terminating Defendants' lease for the use of the Crude Helium Enrichment Unit before the lease's existing end date; and any other actions that would frustrate the eventual, lawful sale or conveyance of the System as defined by 50 U.S.C. § 167(4), including such leasehold interests

As set forth more fully in the brief filed in support of this motion, injunctive relief is warranted because Plaintiffs are likely to prevail on their claims that the Invitation For Bid issued by Defendants to sell and convey the Federal Helium System is unlawful because it violates the Helium Stewardship Act of 2013 and is arbitrary and capricious under the Administrative Procedure Act. Moreover, Defendants' conduct will cause irreparable harm by: interfering with Air Products' ability to use helium that it bought from the United States and that is currently stored in the Federal Helium System; causing Air Products to lose customers and its hard-earned goodwill and reputation; and disrupting the country's vital supply of helium. Finally, the balance of the equities and

public interest favor preliminary relief because there is no interest in permitting unlawful agency action, and preliminary relief avoids a crippling blow to the helium industry (including end users performing vital private and public sector work) while this case is litigated.

No security is necessary for the granting of this motion, as Defendants will not suffer any loss or damage through a preliminary injunction. *See* Fed. R. Civ. P. 65(c); *Texas v. Becerra*, 575 F. Supp. 3d 701, 728, 2021 WL 5964687, at *17 (N.D. Tex. 2021); *Greer's Ranch Café v. Guzman*, 540 F. Supp. 3d 638, 652 (N.D. Tex. 2021).

For the reasons discussed herein and in Plaintiffs' brief in support, the Court should grant Plaintiffs' request for a preliminary injunction.

Certificate of Conference

Pursuant to Local Rules 7.1(a) and 7.1(b), Plaintiffs state that Defendants oppose Plaintiffs' motion for preliminary injunction. A conference was held on Monday, September 11, 2023, between counsel representing Plaintiffs (Andrew LeGrand, Helgi Walker, and Aaron Smith) and counsel representing Defendants (the Department of Justice's Liam Holland and Julie Strauss Harris). Agreement could not be reached because Defendants do not consent to the relief sought in this motion—a stay of the implementation or enforcement of Invitation For Bid No. BLM-R-2044 pending resolution of this litigation—and Plaintiffs believe such relief is necessary to secure their rights.

Dated: September 11, 2023

Respectfully submitted,

/s/ Andrew LeGrand

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CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2023, the foregoing document was filed through the Court's ECF system. I further certify that the foregoing document was served pursuant to Federal Rule of Civil Procedure 5(b)(2)(E) by sending it by electronic mail to counsel for Defendants identified below, who consented in writing to service by electronic mail:

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